

Town of Hamburg  
Board of Zoning Appeals  
March 7, 2023  
Minutes

The Town of Hamburg Board of Zoning Appeals met for a Regular Meeting on Tuesday, March 7, 2023 at 7:00 P.M. in Room 7B of Hamburg Town Hall, 6100 South Park Avenue. Those attending included Vice-Chairman Ric Dimpfl, Commissioner Jeff Adrian, Commissioner Mark Yodar, Commissioner Nicole Falkiewicz, Commissioner Laura Hahn and Commissioner Chris Smith.

Also in attendance were Board of Zoning of Appeals Attorney Michelle Parker and Code Enforcement Officer Jeff Skrzypek.

Excused: Chairman Brad Rybczynski

Board members recited the Pledge of Allegiance.

Mr. Dimpfl asked for a moment of silence in honor of past and present military service members, as well as the Buffalo firefighter who recently lost his life.

Commissioner Falkiewicz read the Notice of Public Hearing.

**Tabled Application #5965** Brierwood Village – Requesting six (6) area variances for townhouses at SBL 169.20-1-39 Briercliff Drive (Zoned PUD)

It was determined that no one appeared on behalf of the applicant.

Ms. Falkiewicz made a MOTION, seconded by Mr. Adrian, to table Application # 5965. All members voted in favor of the motion. **TABLED.**

**Tabled Application #5966** Hamburg Retail, LLC – Requesting a use variance to allow a nine-unit townhouse building at 4100 St. Francis Drive (Zoned WC)

It was determined that no one appeared on behalf of the applicant.

Ms. Falkiewicz made a MOTION, seconded by Mr. Adrian, to table Application # 5965. All members voted in favor of the motion. **TABLED.**

**Tabled Application #5967** 3800 Hoover Road – Requesting a use variance to allow townhouses at 3800 Hoover Road (Zoned WC)

It was determined that no one appeared on behalf of the applicant.

Ms. Falkiewicz made a MOTION, seconded by Mr. Adrian, to table Application # 5965. All members voted in favor of the motion. **TABLED.**

**Application #5969** James Heckt – Requesting an area variance for a detached garage at 5003 Lynwood Avenue. (Zoned R-2)

James Heckt, applicant, stated that he would like to construct a 30' X 24' garage in the back yard.

In response to a question from Mr. Adrian, Mr. Heckt stated the the distance from the home to the garage would be at least ten feet. He further stated that the garage would be the required distance from both the rear and side yards.

In response to a question from Ms. Falkiewicz, Mr. Heckt stated the the existing shed on the property would be demolished.

In response to a question from Mr. Adrian, Mr. Heckt stated that the existing garage in the front of the property will not be demolished. He stated that it used to be a house.

**Findings:**

Ms. Falkiewicz made a MOTION, seconded by Mrs. Hahn, to approve Application # 5969.

On the question:

Ms. Falkiewicz reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – The difficulty is self-created, but the balancing test favors the granting of the variance.

All members voted in favor of the motion. **GRANTED**

**Application #5970** AT & T – Requesting an area variance for an attached sign at 6000 South Park Avenue (Zoned C-2)

Troy Williams from TW Signs, representing the applicant, stated that the applicant would like erect a building sign on the rear of the building (east side).

**Findings:**

Mrs. Hahn made a MOTION, seconded by Mr. Adrian, to approve Application # 5970.

On the question:

Mrs. Hahn reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No.

2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – No.

All members voted in favor of the motion. **GRANTED**

**Application #5971** Jacob Dreger – Requesting an area variance for domestic fowl at 5364 Roberts Road.(Zoned R-1)

Ms Joelle Hutshenreuter, the applicant's fiancée, stated that they would like four (4) chickens and their lot is eight (8) feet too narrow to allow them. She stated that their lot is approximately 3/4 acre in size. She stated that they spoke to one of their neighbors, who did not object. She confirmed that they would not have any roosters.

**Findings:**

Ms. Falkiewicz made a MOTION, seconded by Mrs. Hahn, to approve Application # 5971.

On the question:

Ms. Falkiewicz reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – Yes, but the balancing test favors the granting of the variance.

All members voted in favor of the motion. **GRANTED**

**Application #5972** Robin Bennett – Requesting an area variance for a residential addition at 5488 Ontario Avenue (Zoned R-2)

Mr. Tom Juliano, representing the applicant, stated that the applicant would like to construct an addition on the existing home and it would be too close to the garage. He stated that the addition cannot go any closer to Monroe Street or Ontario Street.

In response to a question from Mr. Adrian, Mr. Juliano stated that the applicant is willing to provide a one-hour separation in the partitions.

**Findings:**

Mr. Adrian made a MOTION, seconded by Mr. Yodar, to approve Application # 5972 with the following condition:

- Anything within ten feet of the existing garage will have a one-hour separation (whether it is the partition for the addition or the partition for the garage) through the use of steel studding or Type X 5/8" drywall.

On the question:

Mr. Adrian reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – The condition will take care of that issue.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – The difficulty is self-created.

All members voted in favor of the motion. **GRANTED**

**Application #5973** Terrence D'Angelo – Requesting two (2) area variances for a residential addition at 5415 Lakeshore Road.

Mr. Terry D'Angelo, applicant, stated that he would like to construct a 10' X 30' addition to the existing home towards Route 5. He stated that there would be no visual issue for vehicles exiting Triangle Road onto Route 5 and the property is approximately ten feet higher than Route 5.

In response to a question from Mr. Adrian, Mr. D'Angelo stated that there would be no vehicles parked along Route 5.

**Findings:**

Ms. Falkiewicz made a MOTION, seconded by Mr. Yodar, to approve Application # 5973.

On the question:

Ms. Falkiewicz reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.

4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – The difficulty is self-created but the balancing test favors the granting of the variances.

All members voted in favor of the motion. **GRANTED**

**Application #5974** Mary Beth Scanlon – Requesting four (4) area variances for a detached garage at 3027 Kirschner Parkway (Zoned R-2)

Mary Beth Scanlon, applicant, stated that she would like to demolish the existing garage and construct a new garage in the back of her house.

Ms. Scanlon produced two (2) letters of support from the property owners on either side of her property.

It was noted that the lot is quite narrow.

In response to a question from Ms. Falkiewicz, Ms. Scanlon stated that she needs a two-story garage for storage. She confirmed that there would be no business conducted out of the garage, nor would there be a bathroom, kitchen or living space.

It was determined that the agenda mistakenly identified one of the requested variances as being 850 sq.ft. when in fact the requested variance was 575 sq.ft. It was further noted that the number was correct in the application.

In response to a question from Mr. Yodar, a representative of the applicant stated that the new garage would be wider than the existing garage that will be demolished.

### **Findings:**

Mrs. Hahn made a MOTION, seconded by Ms. Falkiewicz, to approve Application # 5974.

On the question:

Mrs. Hahn reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – Yes.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – Possibly, but the applicant has indicated that the second story will be for storage only and the neighbors on either side do not object, so the balancing test favors the applicant.

All members voted in favor of the motion. **GRANTED**

**Application #5975** Liam Hallick – Requesting an area variance for a detached garage at 2976 Pleasant Avenue (Zoned R-A)

Mr. Liam Hallick, applicant, stated that he would like to construct a 24' X 36' pole barn in an area on his property approximately 80 feet from the road. He stated that he currently has a detached garage on the property, which is why he needs a variance to construct the pole barn. He stated that he needs more room to store his cars, equipment, etc.

It was determined that the applicant property is approximately 1.6 acres in size.

In response to a question from Mr. Adrian, Mr. Hallick stated that the pole barn would be approximately 18 feet from the side property line and 16 feet tall.

**Findings:**

Mr. Adrian made a MOTION, seconded by Ms. Falkiewicz, to approve Application # 5975.

On the question:

Mr. Adrian reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No, the building will be set back from the side property line a distance greater than its height.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – The difficulty is self-created, but the balancing test favors the applicant.

All members voted in favor of the motion. **GRANTED**

**Application #5976** Kate Geiger – Boston Valley Farms – Requesting an use variance for a turkey processing building (Zoned R-A)

Ms. Kate Geiger, applicant and owner of Boston Valley Farms, stated that she raises turkeys for Thanksgiving and the business is growing rapidly. She stated that she is up to 600 turkeys. She stated that she is only allowed to process up to 250 turkeys and in order to obtain the necessary licensing to process 600 turkeys her property needs to be zoned industrial and not just agricultural.

Ms. Falkiewicz advised Ms. Geiger that what she was asking for was a use variance to allow the processing of turkeys in the R-A district and not a rezoning. She noted that if the variance is granted, the zoning would remain the same.

Ms. Geiger stated that she plans to take down a building on the property that is in disrepair and rebuild it for processing the turkeys with all of the equipment required by New York State Agriculture and Markets.

Ms. Falkiewicz explained to Ms. Geiger that in order to satisfy the use variance criteria, competent financial evidence must be submitted showing that the applicant will endure a financial hardship without the granting the variance.

Ms. Geiger stated that she did not have that information and was not informed as to what to expect or bring to the meeting.

**Findings:**

Ms. Falkiewicz made a MOTION, seconded by Mr. Adrian to table Application # 5976.

All members voted in favor of the motion. **TABLED**

**Application #5977** Brian Louis – Requesting an area variance for a detached garage at 6489 Versailles Road, (Zoned R-1)

The owner of the property stated that Brian Louis is actually the architect for the project. He stated that he currently has a two-car garage and three (3) cars, plus equipment, a four-wheeler, riding and push mowers, etc. He stated that he would like to construct some storage space beyond the current detached garage and would not be visible from the road.

**Findings:**

Mrs.Hahn made a MOTION, seconded by Mr. Adrian, to approve Application # 5977.

On the question:

Mrs. Hahn reviewed the area variance criteria as follows:

1. Whether the benefit sought can be achieved by other means feasible to the applicant – No.
2. Whether there would be an undesirable change in neighborhood character or to nearby properties – No.
3. Whether the request is substantial – No.
4. Whether the request will have adverse physical or environmental effects – No.
5. Whether the alleged difficulty is self-created – The difficulty is self-created, but the balancing test favors the applicant.

All members voted in favor of the motion. **GRANTED**

Mr.s. Hahn made a MOTION, seconded by Ms. Falkiewicz, to approve the minutes of February 7, 2023. All members voted in favor of the motion.

Ms. Falkiewicz made a MOTION, seconded by Mrs. Hahn, to adjourn the meeting. All members voted in favor of the motion.

The meeting was adjourned at 7:35 P.M.

Respectfully submitted,  
Nicole Falkiewicz, Secretary  
Board of Zoning Appeals

DATE: March 8, 2023